

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA  
FT. PIERCE DIVISION

CASE NO. 24-14336-CIV-MARTINEZ/MAYNARD

DANIEL PORTER, Individually, and  
MARITIME RESEARCH & RECOVERY, LLC,

Plaintiffs,

v.

CARL ALLEN, Individually, and  
ALLEN EXPLORATION, LLC,

Defendants.

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**PLAINTIFFS' RESPONSE TO DEFENDANTS' FEBRUARY 22, 2025 MOTION TO  
COMPEL PRODUCTION OF DOCUMENTS**

Comes now the Plaintiffs who file this response to the Defendants' February 22, 2025 Motion to Compel Production of Documents.

**PLAINTIFFS' DISCOVERY COOPERATION**

1. Since the inception of this case the Plaintiffs have in good faith tried to meet their Discovery obligations to the Defendants. The Defendants' document requests have required the Plaintiffs to provide thousands of pages of documents. Defendants' motion focuses primarily on an alleged 240 "empty folders" provided within Plaintiffs' January 27, 2025 production of over 17,000 documents.
2. The Plaintiffs have (since the filing of Defendants' motion) rectified other issues raised in Defendants' motion: by providing requested "WhatsApp" communications, and by providing a notarized signature page for Plaintiffs' Interrogatory Answers.

**On December 1, 2024 Defendant Carl Allen sent this message to Allan Gardner:**

*"Hey Allan, sorry for the late response. I was able to discuss with Kinetix about granting you access and there are no issues, before the holiday. Derek was out of the office so when things slow down I should be able to grant access to you and others this coming week, Carl."* [The “access” referred to is the database which is the subject matter of the Defendants’ motion.

4. In August of 2024 the Plaintiff’s database administrator, Tyrell Armstrong, informed Kenton Dickerson, agent of the Defendants, that the database had previously been provided to them:

*"Kenton: before your new guy gets on the horn with me, I'd suggest that you let him review the AEX database help file with details of the data in the database and the workflow used to acquire it."* (See Exhibit #2 attached to this motion).

5. Exhibits #3 and #4 to this motion prove that the Defendants had access to and made copies of this database. For the Defendants to now maintain that they are in need of this database, and do not have a copy of it is false. It is evidence of the Defendants’ bad faith in bringing this Motion to Compel.
6. As to the Defendants’ assertion in Paragraph 7 of their motion regarding “full and complete” responses to requests to produce 2, 5, 9, 10, 11, 14, 15, 16, 18, 22, 23, 25, 27, 30, 31, 34, 35, 37, 38, 39, 40, 41, 42, 43, 45, and 48, this “shotgun” allegation of incomplete production gives neither this Court, nor the Plaintiffs, any direction that Plaintiffs’ January 27, 2025 production didn’t fully satisfy their request, or establish that such “full and complete” response can be made beyond what was given to them.

As shown in Defendants’ Motion for “Terminating” Sanctions, the Defendants were recipients of Plaintiffs’ inadvertent electronic copy of all of the attorney/client messages between the Plaintiffs and their Counsel up to late January 2025. Further,

Plaintiffs believe that the Defendants are also in receipt of Plaintiffs' attorney/client emails and documents that were mistakenly sent within the 1,700 documents of January 27, 2025. A hearing by this Honorable Court is needed to establish what the Defendants have in this respect and whether they are entitled to further production of documents and whether Plaintiffs have anything further to give them.

**WHEREFORE**, the above grounds, filed pleadings, and exhibits attached to this Response, the Plaintiffs would move this Honorable Court to deny the Defendant's Motion to Compel Production as said request is not brought in good faith and further is moot by virtue of the material the Defendants have in their possession or have been previously provided by the Plaintiffs since the Defendants' request.

The Plaintiffs seek this Honorable Court to grant to them reasonable attorneys' fees for defending this motion, and such further relief as this Court deems reasonable and just including the striking of the Defendants' pleadings, disqualification of Defendants' Counsel, and other relief that has been previously requested in Plaintiffs' prior motions for the egregious conduct by the Defendants and the filing of this motion in bad faith.

**LAW OFFICE OF RICHARD D. KIBBEY, P.A.**  
Attorney for the Plaintiffs  
416 SW Camden Avenue  
Stuart, FL 34994  
Telephone: (772)286-0023

/s/ **Richard D. Kibbey**  
**RICHARD D. KIBBEY**  
Florida Bar No. 255149  
Email: Kibbylegal@gmail.com

**JASON M. WANDNER, P.A.**  
Attorney for the Plaintiffs  
100 N. Biscayne Blvd, Suite 1607  
Miami, FL 33132  
Telephone: (786)412-1505

*/s/ Jason M. Wandner*  
**JASON M. WANDNER**  
Florida Bar No. 0114960  
Email: Jason@wandnerlaw.com

**CERTIFICATE OF SERVICE**

*I HEREBY CERTIFY* that a true and correct copy of the foregoing document was electronically filed with the Clerk of the Court using the CM/ECF system, on this 26th day of February, 2025, and that the foregoing document is being served this day on all counsel of record identified on the attached Service List, via transmission of Notices of Electronic Filing generated by CM/ECF:

**CHRISTOPHER F. LANZA, P.A.**  
Attorneys for Defendants Carl Allen & Allen Exploration, LLC  
290 NW 165th Street, P-600  
Miami, FL 33169  
Phone: (305) 956-9040  
Email: cfl@lanzalaw.com

# EXHIBIT 1



Kenton Dickerson <kdickersonmrr@gmail.com>

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## Re: AllenX Database

1 message

Carl Allen <Carl@caallenconsults.com>

Sun, Dec 1, 2024 at 2:49 PM

To: Allan Gardner <ellawarley@bellsouth.net>, Carl Allen <callen@allenexploration.com>, Michael Pateman <mpateman@aexbmm.com>

Cc: Kenton Dickerson <kdickersonmrr@gmail.com>, Preston Paine <ppaine@allenexploration.com>, Jimmy Campbell <j4campbell@allenexploration.com>, Enoch Smith <esmith@allenexploration.com>

Hey Allan,

Sorry for the late response. I was able to discuss with Kinetix about granting you access and there are no issues. Before the holiday, Derek was out of the office so a few things slowed down. I should be able to grant access to you and others this coming week.

Carl

Get Outlook for iOS

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**From:** Allan Gardner <ellawarley@bellsouth.net>

**Sent:** Friday, November 29, 2024 3:45:51 PM

**To:** Carl Allen <callen@allenexploration.com>; Michael Pateman <mpateman@aexbmm.com>; Carl Allen <Carl@CAAllenConsults.com>

**Cc:** Kenton Dickerson <kdickersonmrr@gmail.com>; Preston Paine <ppaine@allenexploration.com>; Jimmy Campbell <j4campbell@allenexploration.com>; Enoch Smith <esmith@allenexploration.com>

**Subject:** Re: AllenX Database

Carl,

Any idea when we will get access?

Allan

On Monday, November 18, 2024 at 08:39:13 AM EST, Carl Allen <carl@caallenconsults.com> wrote:

Sounds good Allan. I will have Kinetix grant you and MP access to the server. Jimmy will work with Michael to attach the images and you can implement the application which should make it easier to navigate/update the database. Next step will be to layer in some data analysis/visualization and we can really geek out.

Carl Allen III  
CA Allen Consults  
Vega Alta, PR  
214 455 6578  
Carl@CAAllenConsults.com



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**From:** Carl Allen <callen@allenexploration.com>  
**Sent:** Saturday, November 16, 2024 12:05 PM  
**To:** Michael Pateman <mpateman@aexbmm.com>  
**Cc:** Allan Gardner <ellawarley@bellsouth.net>; Kenton Dickerson <kdickersonmrr@gmail.com>; Carl Allen <Carl@CAAllenConsults.com>; Preston Paine <ppaine@allenexploration.com>; Jimmy Campbell

<j4campbell@allenexploration.com>; Enoch Smith <Esmith@allenexploration.com>

**Subject:** Re: AllenX Database

Thank you Allan  
Sent from my iPad

On Nov 16, 2024, at 9:43 AM, Michael Pateman <mpateman@aexbmm.com> wrote:

Thanks Allan

Michael

Sent from my iPhone

On 16 Nov 2024, at 3:06 PM, Allan Gardner <ellawarley@bellsouth.net> wrote:

Just so we are all on the same page.

I have sent a copy of the AllenX Artifacts database that I created, to Jimmy Campbell. This was created from the data I downloaded from Dan's database a day before we were locked out. This includes everything through July 31, 2024 he had, with the exception of the pictures which Micheal has.

As soon as I and the lab get remote access to the new database server we will implement the new application I developed that allows the lab to maintain and search the database as well as automatically updating from the search boats logs.

Still waiting for the wind to calm and get back to the hunt.

Allan

# EXHIBIT 2



Kenton Dickerson &lt;kdickersonmrr@gmail.com&gt;

## Ref: hand-off of services

3 messages

Tyrrell Armstrong &lt;armstrot@bellsouth.net&gt;

Wed, Aug 28, 2024 at 9:08 AM

To: Kenton Dickerson &lt;kdickersonmrr@gmail.com&gt;, Dan Porter &lt;dportermrr@gmail.com&gt;

Kenton:

Before your new guy gets on the horn with me, I'd suggest that you let him review the aexdatabase help file, which details the data in the database and the workflow used to acquire it.

You can send him this link to review that: AEXDATABASE HELP

During our conversation, if an issue is raised that is covered in that help file, I will indicate same.

If your guy does not understand the basic elements of the database outlined in the help file, you probably need to find somebody who does. I will be billing for consultation.

I perform 4 services for MRR/AllenX:

1. Routine maintenance of the server
2. Routine maintenance of the database
3. COA production
4. Mapping service



As for item 1.: your server, your problem

As for item 2.: I have no idea what you have planned, so all I can do is provide the data to you either as a collection of MS SQL Server files, or as a text extract of ALL the current records at some predetermined date. Be aware that in my design, the photographs are "inline" with each record and they are stored in the database records themselves in binary form. In the event that the database is migrated to another database engine such as PostgreSQL or MySQL, I have no idea if the photos will be visible or useful in any way. All inline photos are preprocessed by me and mounted using queries at the server itself. I have had to write a special executable program on my own system to facilitate this design which produces queries in batch. That software is proprietary to me. However, the database interface does permit a user to upload photos directly through the interface, so while that is not the easy way to reconstruct the inline design, it does work if you use SQL Server. There are almost 9000 photos. I can provide an SQLite database of their locations in the FTP storage of the MRR server if you care to reconstruct that storage layout. I presume you have the photo files stored on some other device. Be aware that if you do NOT set the inline photos to a max resolution of 600 pixels on a horizontal side, the database becomes so sluggish it will test the resolve of anyone trying to make use of it. This was a big issue with the original design I inherited.

As for item 3.: I have produced thousands of Certificates of Authenticity for AllenX, along with the coin flips. To do this I had to write several executable programs over time, including variants for coins, artifacts, jewelry, and gems. That software is proprietary to me. The COA production is very time consuming and not one of my favorite tasks, even using my own software. Henceforth, I am not going to do any more of them unless I am paid \$60 per hour for that service. The text data for the COA's is extracted by query from the database, then arranged in specific order as a CSV file. The photos are downloaded from the FTP storage area (ergo the need for a storage map as previously mentioned), processed in batch to 600 pixels horizontally and generally I have to rename many of them in the case of coins where the obverse and reverse photos have added characters. You can ask Michael about this and he can explain it to you.

As for item 4: I'm sure you can take care of this yourself without any assistance from me.

My understanding currently is that this hand-off will occur within 90 days. After that, without any further authorization for services rendered, I will no longer consult with AllenX, and in keeping with the terms of the non-disclosure agreement, I will erase all the data I control on my own system(s), exclusive of the MRR server. That data includes all the COA's, photos, map updates, working maps, database files of any type, and outbound email from me to all representatives of AllenX.

Terry Armstrong sends



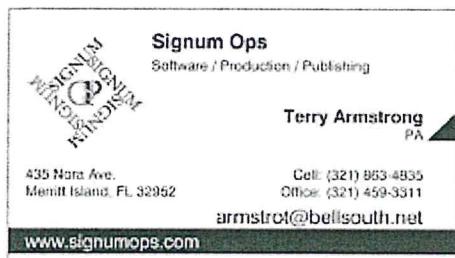
Kenton Dickerson <kdickersonmrr@gmail.com>  
To: Kentondickerson@gmail.com

Wed, Aug 28, 2024 at 9:34 AM

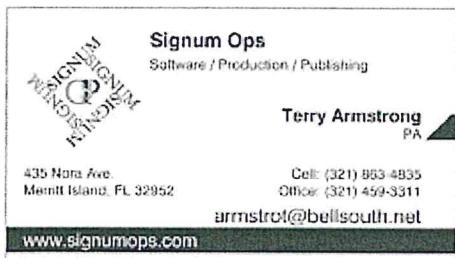
[Quoted text hidden]

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2 attachments



SignumOpsBusinessCard.JPG  
34K



SignumOpsBusinessCard.JPG  
34K

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Kenton Dickerson <kdickersonmrr@gmail.com>  
Draft To: Kentondickerson@gmail.com

Wed, Aug 28, 2024 at 11:50 AM

Thanks for the detailed email. AEX has no problem paying for your time. The phone call is just a preliminary effort to get the ball rolling. So when yo

[Quoted text hidden]

**HISTORIC SHIPWRECK EXPLORATIONS,  
EXCAVATIONS AND RECOVERIES  
A MULTI-DISCIPLINARY ENDEAVOR**

- Archaeology
- Historical and Archival Research
- Meteorology
- Marine Biology and Marine Environmental Sciences
- Artifact Conservation, Research and Identification
- Metallurgy
- Numismatics
- Heraldry
- Cartography and Computer Mapping
- Electronics
- Photography
- Diesel, Outboard and Small Gas Engine Mechanics
- Large and Small Vessel Handling and Repairs & Maintenance
- SCUBA Diving
- Maritime and Admiralty Law
- Politics as Relates to Historic Shipwrecks
- Sales and Marketing
- Media and Press Relations
- Public Speaking

# EXHIBIT 3



Kenton Dickerson <kdickersonmrr@gmail.com>

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**phone call with your guy**

1 message

Tyrrell Armstrong <armstrot@bellsouth.net>  
To: Kenton Dickerson <kdickersonmrr@gmail.com>

Fri, Aug 30, 2024 at 9:53 AM

Kenton,

Was that phone call with your computer guy supposed to be today (Friday), or tomorrow on Saturday?

Terry Armstrong sends





Kenton Dickerson <kdickersonmrr@gmail.com>

## regarding your database request

2 messages

Tyrrell Armstrong <armstrot@bellsouth.net>

To: Kenton Dickerson <kdickersonmrr@gmail.com>, Dan Porter <dportermrr@gmail.com>

Tue, Sep 10, 2024 at 7:38 PM

Kenton,

I am downloading the BAK file of the online database as we speak. It is 10 gigabytes in size and will take quite a while to download. I had to break it into portions. It will fit on a single thumb drive which I have here.

Be aware the server is rented by the month and is on a server farm maintained by a separate company. Dan has been renting it for many years. Basically he pays for it and it hosts all of his data from previous operations as well as the aexdatabase. It's not something I own. I only administer it remotely.

Dan can not give you administrative access to his server. Well actually he could do that, but if he does, I wash my hands of the whole operation. The server and the database are functional and balanced under my control.

To use the current working database file you will have to have your own Windows server with an account that gives you access to Microsoft SQL Server. You will need a server administrator who can access the Windows server directly. That administrator will have to restore the database using the file I will give you. SQL Server is not a simple database like Access, for example. So you will require somebody who can also maintain the database if you use the original SQL Server database.

I will also collect a CSV version of the records in the database along with the attendant control tables, excluding the logon security tables. Your operation might then use this as an import source for another database product. There are a number of "low code/no code" platforms out there you might be satisfied with. None the less, my original advice reference the inline photos still applies.

I will text you when the thumb drive is ready and you can pick it up, or I can mail it to you.

I suppose I can also hang it on my cloud server, if you want to download it to your own system. The data is proprietary and needs to be secure IMHO.

Terry Armstrong sends

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Kenton Dickerson <kdickersonmrr@gmail.com>  
To: Michael Pateman <mpateman@aexbmm.com>

Wed, Sep 11, 2024 at 11:53 AM

----- Forwarded message -----

From: Tyrrell Armstrong <armstrot@bellsouth.net>

Date: Tue, Sep 10, 2024, 7:38 PM

Subject: regarding your database request

To: Kenton Dickerson <kdickersonmrr@gmail.com>, Dan Porter <dportermrr@gmail.com>



Kenton,

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Terry Armstrong sends